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SUBJECT: KAZAKHSTANI PARLIAMENT PASSES REGRESSIVE AMENDMENTS TO ELECTIONS LAW

11. (SBU) SUMMARY: During a joint meeting of both chambers on April 8, the Kazakhstani Parliament passed a set of amendments to the Elections Law that raise serious concerns about the GOK's political will to support free and fair elections. Although there are some amendments that appear to be an attempt to address genuine shortcomings in the current legislation, these positive moves are vaguely drafted and create as many questions as they answer. The majority of the amendments passed are distinctly at odds with Kazakhstan's OSCE commitments. The most troubling changes are severe limitations on rights of assembly and free association during the pre-elections period and burdensome eligibility restrictions for candidates, members of election commissions, and parties joining electoral blocs. These amendments appear to be the executive branch response to recent events in the Ukraine and Kyrgyzstan. END SUMMARY

THE VOTE

12. (SBU) The controversial Parliamentary vote came the day after ODIHR released a stinging preliminary assessment of the proposed amendments. OSCE reports that the assessment was done at the request of pro-Presidential Asar party. The amendments were drafted by the Ministry of Justice, presumably at the initiative of the Presidential Administration, and presented to Parliament by Minister of Justice Onalsyn Zhumabekov. Given the heavily pro-Presidential makeup of the Parliament, the debate was remarkably divided, with Asar MPs reportedly sticking together to oppose the measure. Several other Parliamentarians, including Senator Zauresh Battalova (DCK) and Serik Abdrakhmanov (Otan), Chairman of the Mazhilis' International Relations, Security and Defense Committee, publicly criticized the amendments as an undemocratic infringement of citizens rights. Abdrakmanov was particularly concerned about the restrictions on freedom of peaceful assembly. Because breakout of the vote is not publicly available, it is unclear how many Otan members voted with Abdrakhmanov and how many voted with Speaker of the Mazhilis Ural Mukhamedzhanov, who expressed strong support of the amendments.

THE AMENDMENTS: THE SOMEWHAT GOOD...

13. (SBU) Several of the amendments received praise, albeit faint, in the ODIHR assessment. One amendment establishes a deadline of two days prior to an election for a candidate to withdraw. Previously, a candidate could withdraw at any time. ODIHR notes that the new deadline allows time for notice to be disseminated to prevent wasted votes, although the ODIHR assessment recommends that the deadline be increased. ODIHR also praised two amendments to Article 49: one provides a five day deadline for resolution of citizens' and organizations' appeals regarding election violations, the other provides a three day deadline for resolution of appeals regarding decisions and actions of election commissions and their members.

THE PROBABLY BAD ...

14. (SBU) Election Commissions: ODIHR recommended clarification of an amendment to Article 10 that regulates changes in the composition of the election commission. The language, ODIHR notes, could be construed as either creating an additional authority vested in the next election commission in the chain of authority, or as creating an additional procedural requirement that changes in election commissions be approved by the next level election commission. ODIHR tied this amendment to its previously expressed concerns about opposition parties' disproportionately low representation on election commissions; Post shares those concerns.

15. (SBU) Voter lists: ODIHR criticized an amendment to Article 24 empowering election commissions to register a voter who had moved into a precinct in the interim between the date the Central Election Commission (CEC) presents an

election list and the date of the election. Post agrees with the ODIHR assessment that the amendment, as drafted, has insufficient safeguards to ensure that voters cannot

register and vote in multiple districts. However, the measure appears to be an attempt to address voter access problems noted in ODIHR's September Mazhilis election assessment. Post believes that the additional safeguards proposed by ODIHR in its assessment, including recording voter's ID cards on voter lists and assigning serial numbers to precinct-issued voter certificates, would ensure a reasonable amount of voter list accountability.

16. (SBU) Mobile Voting: ODIHR views the amendment expanding access to mobile voting as ambiguous and contradictory to current Kazakhstani legislation. For example, the amendment provides for mobile voting for those living in remote regions "where there are no electoral districts." The amendment provides no measure of "remoteness," and ignores the fact that every square meter of the country is assigned to an electoral district and polling station.

17. (SBU) Financial Disclosure: Another provision in the amendments would require candidates and their spouses to provide financial disclosure statements. Given the role of GOK financial police inspectors in partisan harassment, Post agrees with ODIHR's recommendation that language be added to the amendment to make it clear that the disclosure is for public information purposes, not disqualification, and cannot be used as the basis for any criminal or financial investigations.

AND THE DEFINITELY UGLY

18. (SBU) Restrictions on Freedom of Assembly: The restrictions on freedom of assembly and freedom of association are the most troubling of these amendments. From the day of the election until the official publication of election results, rallies, demonstrations and other forms of public gatherings, whether organized by candidates or parties, are prohibited. There are separate prohibitions against organizing and attending such gatherings. Post agrees with ODIHR's assessment that these provisions are a clear violation of the OSCE Copenhagen Document and that freedom of peaceful assembly is a fundamental human right guaranteed under international treaties signed by the GOK.

19. (SBU) Restrictions on Electoral Blocs: An amendment to Article 87 that places additional requirements on electoral blocs appears aimed at upcoming presidential elections, in which several opposition parties have announced plans to back a single candidate. Blocs will now be required to have a coordinating council that operates under a formal written agreement between the parties; the coordinating council would be required to keep written minutes of its decisions. The article may have been drafted in response to Ak Zhol Chairman Baimenov's public criticism that the Coordinating Council of Democratic Forces (including his former Ak Zhol co-chairs Abilov, Sarsenbauly and Zhandosov) was holding "back room" discussions among senior leaders that had not been shared with the rank and file party membership. Post shares ODIHR's concern that this legislation, while possibly an attempt to do something positive, creates an opening for GOK oversight of parties' and blocs' internal policies that would be unacceptably intrusive.

COMMENT

10. COMMENT: Post-election events in Ukraine were watched very closely in Kazakhstan, especially in light of the previous year's events in Georgia. Although there were no immediate, overt legislative responses, there was a marked increase in harassment of pro-democracy NGOs through administrative investigations, raids, and audits (reftel E). The events in Kyrgyzstan, however, with media reports of violence and looting, have been cited by some pro-presidential politicians as justification for "protective" measures restricting political rights, including rights of assembly. The sloppy drafting could be a sign that some or all of amendments were drafted hastily, in response to the situation in Kyrgyzstan. Although it is likely that President Nazarbayev will sign this legislation, there is still a slight chance that he could be persuaded by his daughter or others to reject the package. Post will continue to support OSCE/ODIHR's engagement on this issue and will look for opportunities to make our concerns known

to the GOK. END COMMENT

12. (U) Dushanbe minimize considered.

ASQUINO

